

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

Michael A. Kennedy

Date of Original Judgment: 09/29/2022

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: 0419 3:21CR00282-001USM No: 31253-509

Pro Se

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 50 months **is reduced to** 40 months.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)


Except as otherwise provided, all provisions of the judgment dated 09/29/2022, shall remain in effect.

IT IS SO ORDERED.

Signed: January 9, 2024

Effective Date: 02/01/2024

(if different from order date)


 Frank D. Whitney
 United States District Judge

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: Michael A. Kennedy
CASE NUMBER: 0419 3:21CR00282
DISTRICT: Western District of North Carolina

I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Total Offense Level: <u>23</u>	Amended Total Offense Level: <u>21</u>
Criminal History Category: <u>I</u>	Criminal History Category: <u>I</u>
Previous Guideline Range: <u>46</u> to <u>57</u> months	Amended Guideline Range: <u>37</u> to <u>46</u> months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

- ☒ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)

Defendant is eligible for a reduction under Amendment 821 of the United States Sentencing Guidelines because he is a "Zero-Point Offender" under revised Guideline Section 4C1.1(a). Therefore, he is entitled to a 2-level reduction of his total offense level, from a total offense level of 23 to a total offense level of 21. Further, the Court has considered the sentencing factors set forth in 18 U.S.C. 3553(a) in rendering an appropriate reduced sentence and finds that a sentence of 40 months is sufficient but not greater than necessary to serve the purposes of sentencing.